

# HOUSE BILL 842

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11r1343  
CF SB 516

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By: **Delegates Healey, Gilchrist, Glenn, and Lafferty**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2011

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Foreclosed Residential Property – Tenants – Collection of Rent Payments**  
3 **– Prior Notice**

4 FOR the purpose of prohibiting a foreclosure sale purchaser from exercising any right  
5 to collect rent payments from a bona fide tenant in possession of a residential  
6 property unless the purchaser conducts a certain reasonable inquiry concerning  
7 the occupancy of the residential property and serves on each bona fide tenant a  
8 certain notice concerning rent payments; providing that a foreclosure sale  
9 purchaser waives any claim to rent payments from a bona fide tenant in  
10 possession of a residential property before satisfying certain notice  
11 requirements subject to a certain exception; defining certain terms; providing  
12 for the application of this Act; and generally relating to the collection of rent  
13 payments from tenants in possession of foreclosed residential property.

14 BY repealing and reenacting, without amendments,  
15 Article – Real Property  
16 Section 7–105.1(a)(9) and 7–105.6(b)(1)  
17 Annotated Code of Maryland  
18 (2010 Replacement Volume and 2010 Supplement)

19 BY adding to  
20 Article – Real Property  
21 Section 7–105.10  
22 Annotated Code of Maryland  
23 (2010 Replacement Volume and 2010 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Real Property**

4 7–105.1.

5 (a) (9) “Residential property” means real property improved by four or  
6 fewer single family dwelling units that are designed principally and are intended for  
7 human habitation.

8 7–105.6.

9 (b) (1) For purposes of this subsection, a lease or tenancy shall be  
10 considered “bona fide” only if:

11 (i) The mortgagor or grantor or the child, spouse, or parent of  
12 the mortgagor or grantor under the contract is not the tenant;

13 (ii) The lease or tenancy was the result of an arm’s length  
14 transaction; and

15 (iii) The lease or tenancy requires the receipt of rent that is not  
16 substantially less than fair market rent for the property or the unit’s rent is reduced  
17 or subsidized due to a federal, State, or local subsidy.

18 **7–105.10.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
20 MEANINGS INDICATED.

21 (2) “BONA FIDE TENANT” MEANS A TENANT UNDER A LEASE OR  
22 TENANCY DESCRIBED IN § 7–105.6(B)(1) OF THIS SUBTITLE.

23 (3) “FORECLOSURE SALE PURCHASER” MEANS ANY PURCHASER  
24 AT A FORECLOSURE SALE OF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL  
25 PROPERTY.

26 (4) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §  
27 7–105.1(A)(9) OF THIS SUBTITLE.

28 (B) A FORECLOSURE SALE PURCHASER MAY NOT EXERCISE ANY RIGHT  
29 TO COLLECT RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A  
30 RESIDENTIAL PROPERTY UNLESS THE PURCHASER:

1           (1) CONDUCTS A REASONABLE INQUIRY AS REQUIRED UNDER  
2 MARYLAND RULE 14-102 OF THE MARYLAND RULES INTO:

3                   (I) THE OCCUPANCY STATUS OF THE RESIDENTIAL  
4 PROPERTY; AND

5                   (II) WHETHER ANY INDIVIDUAL IN POSSESSION OF THE  
6 RESIDENTIAL PROPERTY IS A BONA FIDE TENANT; AND

7           (2) SERVES ON EACH BONA FIDE TENANT, BY FIRST CLASS MAIL  
8 WITH A CERTIFICATE OF MAILING ~~AND POSTING IN A CONSPICUOUS PLACE ON~~  
9 ~~THE RESIDENTIAL PROPERTY~~, A NOTICE THAT:

10                   (I) CONTAINS THE NAME, ADDRESS, AND PHONE NUMBER  
11 OF THE PURCHASER OR THE AGENT OF THE PURCHASER WHO IS RESPONSIBLE  
12 FOR MANAGING AND MAINTAINING THE RESIDENTIAL PROPERTY; AND

13                   (II) STATES THAT RENT PAYMENTS MUST BE DIRECTED TO  
14 THE PURCHASER OR THE AGENT IDENTIFIED IN ITEM (I) OF THIS ITEM.

15           (C) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
16 SUBSECTION, A FORECLOSURE SALE PURCHASER WAIVES ANY CLAIM TO RENT  
17 PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL  
18 PROPERTY FOR ANY PERIOD OF TIME BEFORE THE PURCHASER SATISFIES THE  
19 REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

20                   (2) A FORECLOSURE SALE PURCHASER DOES NOT WAIVE ANY  
21 CLAIM TO RENT DUE AND PAYABLE FOR USE OF THE RESIDENTIAL PROPERTY  
22 FOR THE 15 DAYS IMMEDIATELY PRIOR TO THE DATE THAT THE PURCHASER  
23 SATISFIED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

24           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
25 construed to apply only prospectively and may not be applied or interpreted to have  
26 any effect on or application to any action to foreclose a mortgage or deed of trust on  
27 residential property docketed on or before June 30, 2011.

28           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 2011.